

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

An important aspect of the present invention is a frozen aerated ice cream containing milk solid non fat, dietary fibre, sweetener and no additional stabilizers or emulsifiers.

In Blake, whereas it is claimed that the compositions are "free of conventional emulsifiers," it is nonetheless specified that the compositions contain a "whipping agent" (abstract; column 14 line 23, column 15 line 43). This whipping agent is described in Examples 1 and 2 as a water soluble protein hydrolysate. The very definition of emulsifiers is something which improves the whipping quality of the mix, due to their function at the air interface, resulting in reduced air cell sizes and homogeneous distribution of air in the ice cream. (See, Arbuckle 5th edition page 30). So applicants submit that Blake contains emulsifiers which are excluded from the present invention.

Blake's compositions also contain "acid stable polysaccharide gums," preferably guar gum, locust bean gum and xanthan gums (column 11 line 43 to column 12 line 18) (see also example 1 and example 2 which both contain xanthan gum). These products are known and recognized stabilizers and they are actually used for that reason in Blake (see column 12 line 8 to line 18). Those gums are classified as stabilizers in Arbuckle 5th edition pages 72 to 74. So Blake contains stabilizers which are excluded from the present invention.

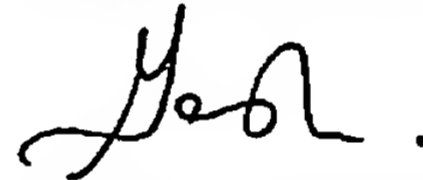
Given particularly the deficiencies of primary reference Blake mentioned above, it is not apparent how one of ordinary skill would be led by the combination of Blake and Huang to the present invention.

Another important point concerning Blake is that a key characteristic of his product is that it is a non-dairy product. This would exclude the presence of dairy ingredients, and more particularly milk solids non fat, which are recited herein. A person skilled in the art would therefore not, in combining any potential teaching of Huang and Blake remove a key aspect of Blake's invention, namely the non dairy character of it by introducing milk solids non fat as described in Huang.

An Information Disclosure Statement which is too voluminous to telefax is being mailed today.

In view of the foregoing, it is respectfully requested that the rejections be withdrawn and the Information Disclosure Statement be considered of record.

Respectfully submitted,



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